Welcome

Human Resources Office, Norfolk

Human Resources On-Line EEO Training

- Congratulations for selecting HRO Norfolk's on-line EEO Training. This training is appropriate for both supervisory and non-supervisory employees.

- This program will update you on the legal statutes that govern EEO laws, rules and regulations.

How Does The On-Line Training Program Work?

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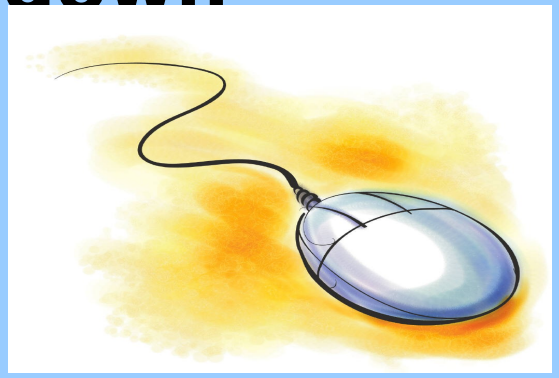
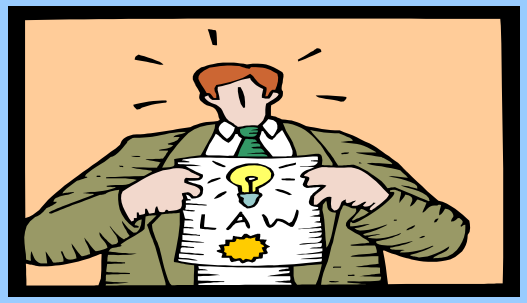


Why EEO Training?

- **Navy directives require all civilian and military supervisors to receive annual Equal Employment Opportunity (EEO) training. To fulfill this obligation, we have developed on-line EEO training as an alternative to the older style classroom/theatre training.**

- **It is important for employees to know their rights and the laws that protect them if they feel they have been subjected to discrimination.**



Who May File An EEO Complaint?

An applicant, or former or current employee may file a discrimination complaint with the agency that allegedly committed the discriminatory act, practice, or personnel action.

What Regulation Governs Federal Sector Equal Employment Opportunity (EEO) Discrimination Complaints?

29 Code of Federal Regulations (CFR) 1614

What Are The Protected Bases Covered Under 29 CFR 1614?

RACE	**COLOR**
RELIGION	**NATIONAL ORIGIN**
SEX	**AGE**
DISABILITY (Physical and/or Mental)	**REPRISAL** (Prior EEO Activity)

Who Enforces All Of These Laws?

- **The Equal Employment Opportunity Commission (EEOC) enforces all of these laws. EEOC also provides oversight and coordination of all federal EEO regulations, practices, and policies.**

See EEOC's web page at: **http://www.eeoc.gov**

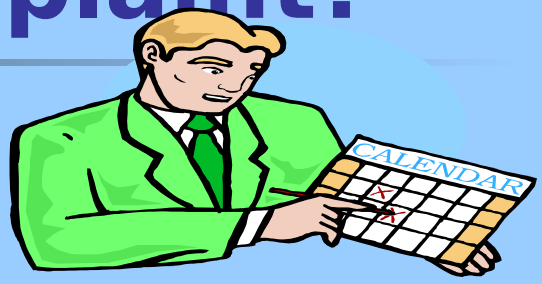
What Is Unlawful Discrimination?

An unlawful employment practice occurs when an employer fails or refuses to hire, discharges, or otherwise discriminates against an individual with respect to a term, condition, or privilege of employment because of an individual's race, color, religion, sex, national origin, age, disability, or reprisal.

What Does The Law Say About Retaliation/Reprisal?

- No person shall be subjected to retaliation for opposing any practice made unlawful by Title VII of the Civil Rights Act; the Equal Pay Act; the Age Discrimination Employment Act; or the Rehabilitation Act, or for participating in any stage of an administrative or judicial proceeding under those statutes.

Are There Time Limits for Filing an EEO Complaint?



Answer: Yes

- An aggrieved person must initiate contact with an EEO Counselor within **45 calendar days** of the matter alleged to be discriminatory or, in the case of a personnel action, within 45 calendar days of the effective date of the action.

Is There a Difference Between an EEO Complaint and a Grievance?

Answer: Yes

- An EEO Complaint is a complaint filed in accordance with 29 CFR 1614.
- If an employee is covered by a collective bargaining agreement (union) with a Negotiated Grievance Procedure (NGP) that does not exclude processing a grievance involving an allegation of discrimination, the employee may elect to pursue the matter under either the NGP or 29 CFR 1614, but may not employ both procedures.
- If an employee is not covered by a NGP and files an Administrative Grievance alleging discrimination, the employee will be notified that the processing of the matter will be terminated and the employee given the opportunity to withdraw the allegation of discrimination and continue under the Administrative Grievance Procedure or to proceed under 29 CFR 1614.

What Are The Federal Laws Prohibiting Discrimination?

- **EQUAL PAY ACT (EPA) OF 1963**

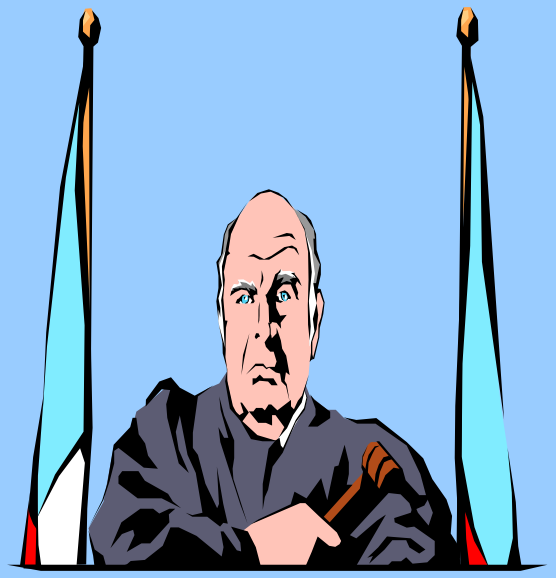
  Protects men and women who perform substantially equal work (requiring the same skill, effort, and responsibility that are performed under similar working conditions)

What Are The Federal Laws Prohibiting Job Discrimination?

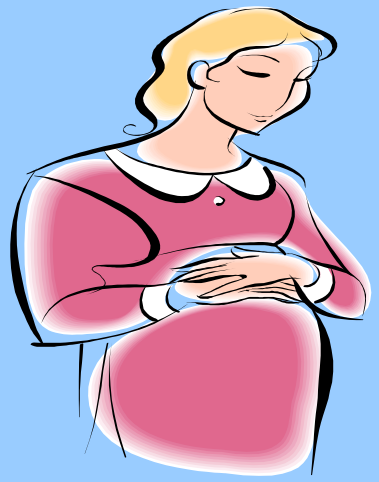
- **TITLE VII OF THE CIVIL RIGHTS ACT OF 1964**

-- Prohibits employment discrimination based on race, color, religion, sex, or national origin.

-- Sexual harassment is a form of sex discrimination in violation of Title VII (see Prevention of Sexual Harassment On-line training at http://www.hronorfolk.navy.mil/ under the EEO link).



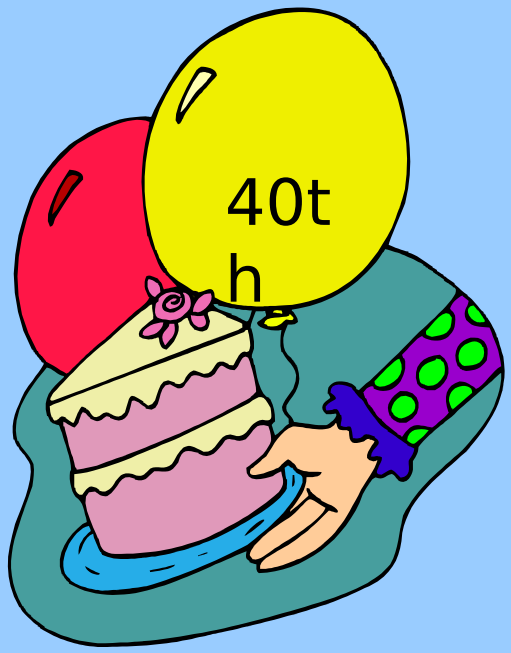
Pregnancy Discrimination Act



- **The Pregnancy Discrimination Act is an amendment to Title VII of the Civil Rights Act of 1964.**
  Discrimination on the basis of pregnancy, childbirth or related medical conditions constitutes unlawful sex discrimination under Title VII.

What Are The Federal Laws Prohibiting Discrimination?

- **AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA) of 1967**

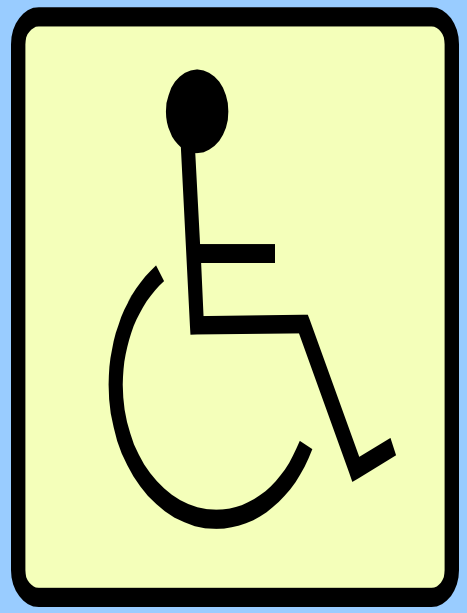


Protects individuals who are 40 years of age and older.

What Are The Federal Laws Prohibiting Discrimination?

- **SECTION 501 REHABILITATION ACT OF 1973**

Prohibits discrimination against qualified individuals with disabilities who work in the federal government.



(See HRO Norfolk's on-line training on Reasonable Accommodation on our web page at www.hronorfolk.navy.mil under the EEO link.)

What Are The Federal Laws Prohibiting Discrimination?

- **TITLE I OF THE AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)**

Prohibits employment discrimination against qualified individuals with disabilities in the private sector, and in state and local governments.

What Are The Federal Laws Prohibiting Discrimination?

- **THE CIVIL RIGHTS ACT OF 1991**

Provides monetary damages in cases of intentional employment discrimination.

What Discriminatory Practices Are Prohibited By These Laws?

- **Under Title VII, the ADA, and the ADEA, it is illegal to discriminate in any aspect of employment, including but not limited to:**

-- hiring and firing;
-- compensation, assignment, or classification of employees;
-- transfer, promotion, layoff, or recall;
-- job advertisements;
-- recruitment;
-- testing;
-- use of company facilities;
-- training and apprenticeship programs;
-- fringe benefits;
-- pay, retirement plans, and disability leave; or
-- other terms and conditions of employment.

Discriminatory Practices Under These Laws Also Include:

- **Harassment on the basis of race, color, religion, sex, national origin, disability, or age;**
- **Employment decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals of a certain sex, race, age, religion, or ethnic group, or individuals with disabilities; and**
- **Denying employment opportunities to a person because of marriage to, or association with, an individual of a particular race, religion, national origin, or an individual with a disability. Title VII also prohibits discrimination because of participation in schools or places of worship associated with a particular racial, ethnic, or religious group.**

Sexual Orientation

- **EXECUTIVE ORDER 13087 prohibits discrimination based on sexual orientation in the federal civilian workforce.**

- **NOTE: No complaint rights under 29 CFR 1614, but may in certain circumstances seek assistance from Merit Systems Protection Board (MSPB); Office of Special Counsel (OSC); Negotiated Grievance Procedure (NGP) or an Administrative Grievance Procedure.**

What Is Harassment?

- The types of behavior that create a “hostile work environment” include unwelcome comments or conduct that unreasonably interfere with an individual’s work performance or creates an intimidating, hostile or offensive work environment.

- Harassment in the workplace occurs when an individual or group of people is treated inappropriately because of their membership in one or more of the protected groups.

Harassment Liability

- An employer is always liable for harassment by a supervisor that results in a tangible employment action.
- Tangible employment actions include: Hiring, firing, promotion, failure to promote, demotion, undesirable reassignment, decision causing significant change in benefits, compensation decision, and work assignment.

Liability For Hostile Environment Harassment By A Supervisor

- An employer is liable for a hostile environment by a supervisor that does not result in a tangible employment action unless it can prove: (1) That it exercised reasonable care to prevent and correct promptly any harassment, and (2) That the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer to avoid harm otherwise.

Liability For Hostile Environment Harassment By A Co-worker

- An employer is liable if management knew or should have known about the harassment and failed to take immediate and appropriate corrective action.

Liability For Hostile Environment Harassment By A Non-Employee

- An employer is liable if management knew or should have known about the harassment and failed to take immediate and appropriate corrective action **within its control**.

National Origin Discrimination Is Defined in EEOC Guidelines As:

-- Discrimination because of an individual's or his/her ancestors' place of origin;

-- Discrimination because an individual has the physical, cultural or linguistic characteristics of a national origin group

-- Discrimination due to attendance at schools or places of worship used by persons of a national origin group and discrimination because an individual's or spouse's name is associated with a national origin group.

Religious Discrimination

- **EEOC guidance provides employees may engage in personal religious *expression* to the greatest extent possible, consistent with workplace efficiency and requirements of Federal law.**

- **Agencies are required to accommodate the religious practices of employees and prospective employees unless doing so causes an undue hardship.**

Religious Accommodation

- **Supervisors**: If an employee asserts a need for religious accommodation, you should do the following:

-- **Inquire as to the nature of the employee's beliefs;**

-- **Consider the sincerity with which the employee holds those beliefs;**

-- **Consider the nature of the conflict between the employee's religious beliefs and his or her job obligation;**

-- **Consider possible accommodations;**

-- **Consider the burdens on business of each accommodation; and**

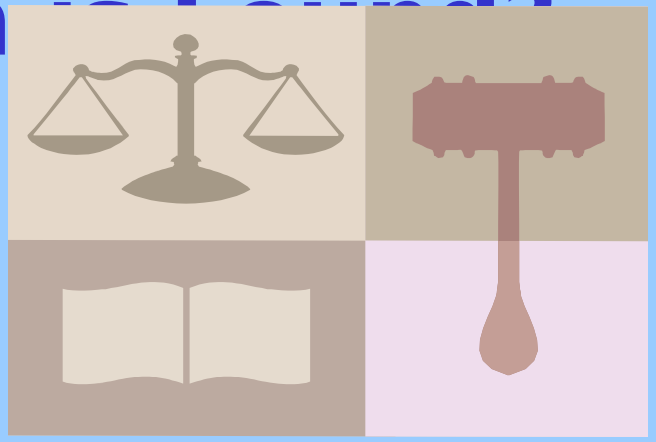
-- **Offer an accommodation unless to do so would cause an undue hardship. NOTE: A showing of undue hardship cannot be based on pure speculation.**

Examples of Alternatives for Religious Accommodation

-- Voluntary swaps (The employer may be able to resolve a religious conflict involving work scheduling by arranging for a voluntary swap of schedules.)

-- Flexible scheduling examples: flexible arrival and departure times; flexible work breaks; permitting employees to make up time lost due to observance of religious practices; lateral transfer or change of assignment (If the employee cannot be accommodated within his or her present job, the employer may consider allowing the employee to transfer to another comparable job within the organization.)

What Remedies are Available When Discrimination is Found?



- Back Pay;
- Hiring;
- Promotion;
- Reinstatement;
- Front pay;
- Reasonable Accommodation;
- Other actions that will make an individual “whole”;
- Compensatory damages;
- Payment of attorney fees;
- Court Costs;
- Posting of Notices to all employees addressing the violation(s);
- Corrective or preventive actions.

Manager's Responsibilities

- **Ensure your actions are free from discrimination!**
- Monitor the conduct of your employees to ensure your workplace is free from hostile, discriminatory, and/or offensive behavior, including sexual harassment;
- Take immediate action to investigate and take appropriate corrective action in cases of inappropriate behavior;
- Communicate the discrimination complaint procedures to your employees;

Manager's Responsibilities (Cont'd)

- Cooperate with EEO officials, specialists, and investigators, and the designated agency representative (your HRO Employee/Labor Relations Specialist and/or Command Counsel);
- Seek reasonable resolution of potential complaints during the pre-complaint stage and cooperate with any effort to settle formal complaints; and
- Keep your chain of command advised of the complaint and input you provided.

Advice for Supervisors/Managers

- Carefully examine your words before you speak and/or write. Remember, your comments may reflect a bias.
- Be consistent in the manner in which you treat your employees.
- Always apply standards equally. Consider only factors that are objective and job related.
- Keep fair and accurate records. Make sure your records reflect the facts of a situation rather than an opinion and/or assumption.
- Never retaliate! Ask yourself - Would you treat an employee who hadn't filed a complaint the same way?

Manager's Rights

- To be made aware of the specific allegation of discrimination for which you have been named as a Responsible Management Official (RMO);
- To approve your employee's requests for official time to determine reasonable amounts of official time are being used (you & your employee should arrive at a mutual understanding as to the amount of official time to be used **prior** to the employee's use of the time. **NOTE: Any denial of official time must be in writing**);
- To present any evidence in support of your position in defending the allegation of discrimination for which you have been named as an RMO;
- To review the complaint file prior to giving testimony at the formal investigation stage and /or hearing stage and review any transcript, statement or affidavit reflecting your interview;
- To be provided with the name/number of the designated Agency Representative (AR). **NOTE**: The AR represents the DON and not the activity employees alleged to have discriminated against the Complainant. Managers are entitled to a personal representative (not the AR) to represent their own interests in the processing of a complaint; and
- To offer Alternative Dispute Resolution (ADR) in an effort to resolve disputes more quickly, cheaply and satisfactory.

Employee Responsibility

- Conduct yourself in a manner consistent with the principles of EEO and which reflects positively on the Department of the Navy (DON);
- Cooperate with EEO program officials, counselors, agency representatives, and investigators, as required.

Employee Rights

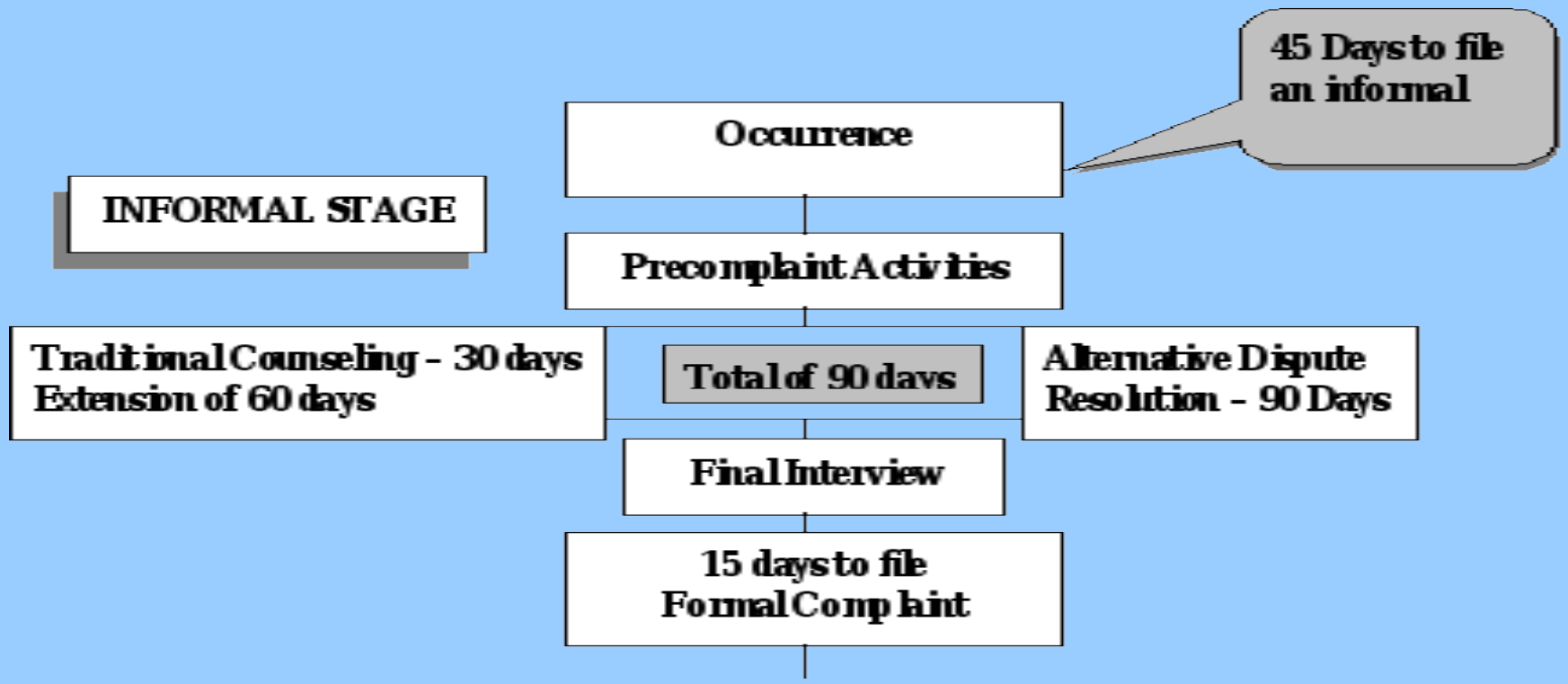
- **You have the right to file an EEO complaint if you are an aggrieved employee (one that has suffered with respect to a term, condition, or privilege of your employment as a result of discrimination);**
- **You are entitled to a reasonable amount of official time;**
- **You have the right to remain anonymous during the precomplaint stage (anonymity is not protected once you file a formal complaint);**
- **You have the right to representation throughout the complaint process;**
- **The possible election requirement between a NGP and the EEO process;**
- **The election requirement in the event that the claim at issue is appealable to the Merit Systems Protection Board (MSPB); and**
- **You have the right to choose between the agency's ADR process or EEO counseling, where the agency offers ADR.**

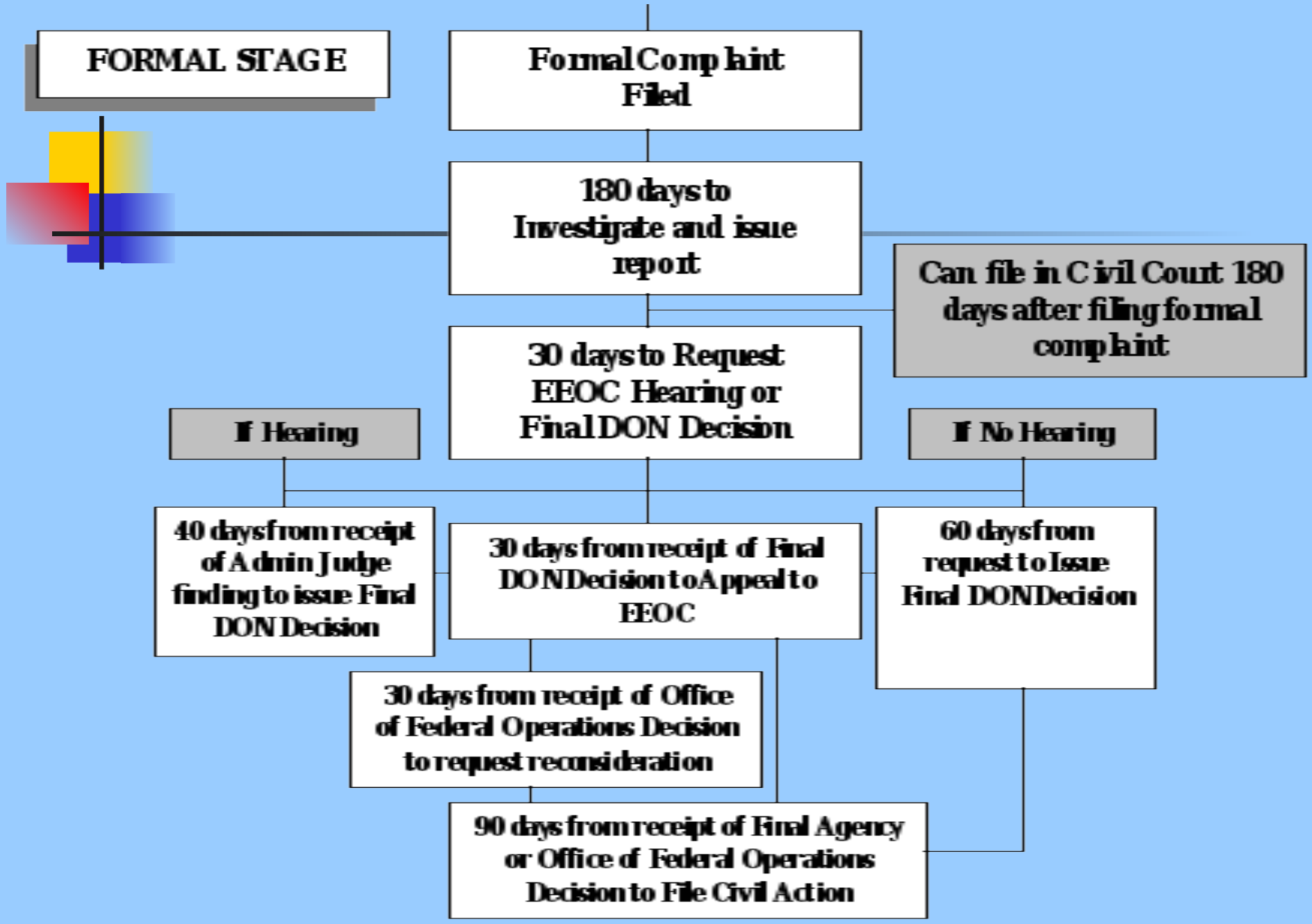
Additional rights and responsibilities are addressed by an EEO Counselor during precomplaint counseling.

FOR ADDITIONAL EEO INFORMATION

- http://www.hronorfolk.navy.mil (and click on link to Equal Employment Opportunity and Alternative Dispute Resolution)
- http://www.eeoc.gov

FEDERAL SECTOR PROCEDURES FOR PROCESSING INDIVIDUAL COMPLAINTS OF DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, AGE, DISABILITY, OR REPRISAL UNDER 29 CFR PART 1614




FORMAL STAGE
Formal Complaint Filed
180 days to Investigate and issue report
Can file in Civil Court 180 days after filing formal complaint
30 days to Request EEOC Hearing or Final DON Decision
If Hearing
If No Hearing
40 days from receipt of Admin Judge finding to issue Final DON Decision
30 days from receipt of Final DON Decision to Appeal to EEOC
60 days from request to Issue Final DON Decision
30 days from receipt of Office of Federal Operations Decision to request reconsideration
90 days from receipt of Final Agency or Office of Federal Operations Decision to File Civil Action

HOW TO DOCUMENT COMPLETION OF THIS ON-LINE TRAINING

In order to update the personnel training database, please go to http://www.donhr.navy.mil and click on training, then click on training support documents, then the managing your training history link. For further guidance please contact the Human Resources Service Center (HRSC) East Training Department at (757) 396-7871. Also, make sure your supervisor is made aware of your completion of this training.

THANK YOU FOR YOUR PARTICIPATION

If you have any questions or a need to seek additional advice, please feel free to contact HRO Norfolk's EEO Programs Department at (757) 445-1664.